

Exhibit Y

In the Matter Of:

S&A v JPMorgan Chase

15-cv-00293-LTS-JCF

BRAD AXEL

July 11, 2017



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

S&A CAPITAL PARTNERS, INC.,
MORTGAGE RESOLUTION SERVICING,
LLC, and 1st FIDELITY LOAN
SERVICING, LLC,

Plaintiffs,

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JPMORGAN CHASE BANK, N.A., CHASE
HOME FINANCE, LLC, and JPMORGAN
CHASE & CO.,

Defendants.

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NO. 15-cv-00293-
LTS-JCF

DEPOSITION OF BRAD AXEL
(videotaped)

Tuesday, July 11, 2017
8:33 - 3:21 p.m.

2385 NW Executive Center Drive
Suite 360
Boca Raton, Florida 33431

Reported By:
Rachel W. Bridge, RMR, CRR
Esquire Deposition Solutions
Job #J0568933

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WITNESS: DIRECT CROSS REDIRECT RECROSS

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Defendant's 115	2012 Tax Return for S&A Bates SA00433747-SA00433767	45
Defendant's 116	BSI financial report for S&A Dec. 1, 2011 to Dec. 31, 2011	61
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1 A. Brody & Associates.

2 Q. What information, if any, is missing that
3 would enable S&A Capital to generate a tax return for
4 2013?

5 A. Our balance sheet items.

6 Q. What balance sheet items are missing?

7 A. Our assets and liabilities.

8 Q. Why are those missing?

9 A. We just don't know if there are assets or
10 liabilities at this point for particular loans.

11 Q. Which loans?

12 A. I can't, I can't say offhand.

13 Q. How many loans?

14 A. I don't know offhand.

15 Q. Approximately?

16 A. I can't say.

17 Q. Did anyone ask -- did you say Brody &
18 Associates?

19 A. Yes.

20 Q. Did anyone ask Brody & Associates to generate
21 a tax return for S&A Capital?

22 A. Not if we didn't -- they couldn't provide it
23 if we didn't have the information to give to them.

24 Q. Did anyone ask them to generate a return?

25 A. Not that I'm aware of.

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1 Q. Did you file, did S&A Capital file for an
2 extension of time in which to generate a tax return?

3 A. We did. I believe we had -- I can't say for
4 sure. I know on our company is an S Corp, so personally
5 we might have asked for an extension, but where that
6 stands now, I don't know.

7 Q. Did you ask for an extension personally?

8 A. I, my wife and I file taxes and we do ask for
9 extensions. Not for our personal returns, but --

10 Q. Have you filed a personal return for 2013?

11 A. Yes.

12 Q. Did it have any entries in it corresponding to
13 S&A Capital?

14 A. It did not contain a K1 from S&A Capital.

15 Q. Did it contain any other entries corresponding
16 or relating to S&A Capital?

17 A. S&A did not file a K1.

18 Q. My question is did your personal tax return in
19 2013 -- I understand there was no K1.

20 Were there any other entries in your personal
21 tax return relating to S&A Capital?

22 A. No.

23 Q. Did S&A Capital generate any income for you in
24 2013?

25 A. I took payroll and management fees were

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1 distributed.

2 Q. Did those management fees go to Eastern Real
3 Estate?

4 A. Yes.

5 Q. And did Eastern Real Estate transmit them to
6 you?

7 A. No. They were deposited into the company and
8 then used for the expenses of the company.

9 Q. Did you get a K1 from Eastern Real Estate?

10 A. Yes.

11 Q. Did income flow from S&A Capital to you
12 through Eastern Real Estate?

13 MS. FAIT: Object to the form.

14 THE WITNESS: There is, I take money from
15 Eastern separate from whether or not S&A is
16 providing it money.

17 BY MR. WICK:

18 Q. Do you get a K1 from Eastern Real Estate in
19 2013?

20 A. Yes.

21 Q. In 2014?

22 A. Yes.

23 Q. In 2015?

24 A. Yes.

25 Q. In 2016?

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1 A. Yes.

2 Q. And was any of the income on those K1s the
3 result of management fees paid by S&A Capital?

4 A. Yes, that was some of the income.

5 Q. Other than management fees, did you receive
6 any other income from S&A Capital after 2012?

7 MS. FAIT: Object to the form.

8 THE WITNESS: I received payroll and
9 management fee, but that's all, that's the only
10 money derived from S&A.

11 BY MR. WICK:

12 Q. Is payroll a salary that you receive from S&A?

13 A. Yes.

14 Q. So you receive both salary and a management
15 fee from S&A?

16 A. Yes, a salary is mandatory, per our
17 accountant.

18 Q. Can you explain that?

19 A. They said you must take salary each year in a
20 reasonable amount for the work you perform for that
21 company.

22 Q. That's what they told you was required as a
23 tax matter?

24 A. Yes, as a corporate matter.
25

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1 (The document was marked Defendant's
2 Exhibit 115 for identification.)

3 BY MR. WICK:

4 Q. I'm handing you what's been marked as
5 Defendant's 115.

6 MS. FAIT: Thank you.

7 BY MR. WICK:

8 Q. Mr. Axel, is Exhibit 115 the 2012 tax return
9 packet for S&A Capital that you received from Brody &
10 Associates?

11 A. Yes.

12 Q. And did Brody & Associates generate a similar
13 tax return for S&A Capital for 2011?

14 A. Yes.

15 Q. And for 2010?

16 A. Yes.

17 Q. And for 2009?

18 A. Yes.

19 Q. And do those, the copies of those returns
20 still exist?

21 A. I don't know.

22 Q. Do you still have copies of them?

23 A. I may.

24 Q. Does S&A still have copies?

25 A. I don't know.

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1 It could have been 2015, but I think in 2016, it went
2 from 5,000 to 6050.

3 Q. And the 6050 is monthly in 2017, correct?

4 A. Yes.

5 Q. And did you receive interest payments, are you
6 receiving interest payments from S&A Capital in 2017?

7 A. Yes.

8 Q. Is it at that same 1184 per month figure?

9 A. Yes.

10 Q. And is your wife receiving \$1,046 per month in
11 interest from S&A Capital in 2017?

12 A. Yes. Her note changed a little bit. If you
13 took out 5,000 to pay -- but it's roughly that amount.
14 It hasn't changed by very much.

15 Q. And have we now discussed every form of
16 payment that you are receiving from S&A Capital in 2017?

17 A. Yes.

18 Q. And for 2015, you were receiving a 40,000 a
19 year salary, correct?

20 A. Yes.

21 Q. And were you receiving 5,000 a month as a
22 management fee in 2015?

23 A. Yes.

24 Q. And what rate of interest payments were you
25 receiving in 2015?

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1 A. It's the same interest rate, was 11 percent.

2 Q. \$1,184 a month?

3 A. I might have had a little bit larger principal
4 balance. So it might have been a couple, maybe 200 or
5 200 or so dollars more, 200 maybe more a month, because
6 I just have a larger amount in the company.

7 Q. Have you been receiving a return of principal?
8 Did you receive a return of principal from S&A in 2015?

9 A. So my wife took back the money from her mom
10 from S&A. Then she loaned it to Brad. Brad loaned it
11 to S&A.

12 So it really just flows through me to her.

13 Q. Okay.

14 A. We're not really receiving separate moneys.
15 It's just --

16 Q. Okay. And in 2015 what rate of interest was
17 your wife receiving from S&A?

18 A. I think it's -- she was at 11 percent up until
19 her mom passed away, and I reduced it to eight, and that
20 was about a year ago, a little over a year ago.

21 Q. And so approximately what was she getting in
22 monthly interest payments into 2015?

23 A. I think it was just under, maybe 1400 a month.
24 I just don't know exactly offhand. But I know now she's
25 receiving 1046. That's a good number.

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1 Q. And in 2014, you received a salary of 40,000
2 from S&A, correct?

3 A. Yes.

4 Q. And did you get a 5,000 per month management
5 fee from S&A in 2014?

6 A. Yes.

7 Q. And can you tell me what level of interest
8 payments you and your wife were receiving? You can give
9 it separately or combined.

10 A. Mine was 11 percent. And if that was the time
11 that her mom was alive, it was also 11 percent.

12 Q. What does that translate per month for 2014?

13 A. Do you want to give me a minute?

14 Q. Sure.

15 A. See if I can pull it up. I just don't
16 remember offhand. You said 2014?

17 Q. That's when I think we are, yeah, we're in
18 2014.

19 MR. TANTILLO: For the record, Mr. Wick, I
20 think I did indicate that we would give you this
21 information.

22 MR. WICK: Oh, I'm sorry, I didn't understand.

23 MR. TANTILLO: No, because you requested it.
24 I mean we'll follow up and give you this
25 information.

1 MR. WICK: Well, if you're going to give this
2 to me in writing, I don't need to torture him about
3 it.

4 MR. TANTILLO: No, you had requested it and I
5 think I said I would, so I apologize for the
6 confusion.

7 MR. WICK: Okay, if I'm getting this in
8 documents, I don't need to drag this out.

9 THE WITNESS: Yes, I can get this easily. I
10 can just look in my Quick Books.

11 MR. WICK: Good deal. I'd like to get 2008 to
12 present.

13 MR. TANTILLO: I'll get it, yes.

14 MR. WICK: And just to not miss a point, if
15 there were return of principal or repayment of
16 principal amounts, I'd like the documents
17 reflecting that.

18 BY MR. WICK:

19 Q. Now I do have one more question for you,
20 Mr. Axel, on this general subject, which is when the,
21 when S&A's tax returns are completed, do you anticipate
22 that there will be any distributions paid to you?

23 A. No.

24 Q. Do you know the balance in S&A's bank accounts
25 as of now?

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1 A. It's about 215,000.

2 Q. Now earlier today, if I understood correctly,
3 you testified that not long after the February 2009 MRS
4 bulk purchase, Mr. Schneider expressed some
5 dissatisfaction about that purchase to you.

6 Did I understand that correctly?

7 A. You did.

8 Q. Was there any discussion of potential
9 litigation against Chase at that time?

10 A. No.

11 Q. Did you anticipate litigation with Chase at
12 that time?

13 A. I think we believed, based on our history with
14 our good relationship with Chase for the past several
15 years prior to that, that we thought it could just be
16 worked out.

17 So that wasn't -- no, we never fathomed that
18 we'd be in this position.

19 Q. And then earlier today we discussed some debt
20 cancellation letters that went out in September 2012.

21 Do you recall that?

22 A. Yes.

23 Q. Did you anticipate at that time that there
24 might be litigation with Chase?

25 A. I don't think so.